

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF WISCONSIN
3 * * * * *
4 ESTATE OF MICHAEL EDWARD BELL, by Special
5 Administrator Michael Martin Bell, KIM MARIE
6 BELL, MICHAEL MARTIN BELL, and SHANTAE BELL,
7 Plaintiffs,
8 vs. Case No. 05-C-1176
9 OFFICER ERICH R. STRAUSBAUGH, OFFICER ERICH S.
10 WEIDNER, LIEUTENANT DAVID H. KRUEGER, OFFICER
11 ALBERT B. GONZALES, KENOSHA POLICE DEPARTMENT,
12 CITY OF KENOSHA,

13 Defendants.

14 * * * * *

15 VIDEOTAPED DEPOSITION OF TODD THORNE

16 TAKEN AT: Kenosha City Hall
17 LOCATED AT: 625 52nd Street
18 Kenosha, WI

19 May 31, 2007
20 1:24 p.m. to 3:05 p.m.
21 REPORTED BY ANITA K. FOSS
22 REGISTERED PROFESSIONAL REPORTER

23 * * * * *

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1 A P P E A R A N C E S

2 CANNON & DUNPHY, S.C., by
Mr. Patrick O. Dunphy
3 and Mr. Brett Eckstein
595 North Barker Road
4 Brookfield, WI 53008-1750
Appearing on behalf of the Plaintiffs.

5
6 GUNTA & REAK, SC, by
Mr. Kevin P. Reak
7 219 North Milwaukee Street, 5th Floor
Milwaukee, WI 53202-5818
8 Appearing on behalf of the Defendants.

9 ALSO PRESENT: Captain Randy Berner

10

I N D E X

11

12 Examination by	Page
13 Mr. Dunphy.	5
Mr. Reak.	89

14

15 E X H I B I T S

16

Exhibit No.	Description	Page Identified
82	Supplementary report dated	
18	November 12th of 2004.	12
19	83 Report dated 12/6/04	13
20	84 - 89 Photo logs and attached	
	photos.	13
21		
	90 Autopsy photos.	13
22		
	91 Photo taken by Officer Beller..	36
23		
24	(Original Exhibits attached to original	
	transcript. Copies provided to all counsel.)	

25

1			
2		R E Q U E S T S	
3	By	Description	Page
4	Mr. Dunphy	Officer Thorne's resumT. . .	8
5		E-mail two missing autopsy	
		photos to Mr. Reak.	9
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1 patterns that you've seen, the accumulation of
2 blood that you've seen and that has been
3 documented in the various photographs. I
4 assume that what you were doing while you were
5 there was documenting all the forensic evidence
6 that was available to you that would give an
7 indication, from a forensic standpoint, of
8 where Michael Bell was when he was shot?

9 A If possible.

10 Q And you diligently searched for all of the
11 evidence you could find of blood, body tissue,
12 skull, brain tissue, anything that would help
13 you as a forensic specialist in making that
14 determination?

15 A That's one of the reasons why I ask that we
16 hold and wait till daylight, so we can see
17 better.

18 Q And when you came back during the daylight, you
19 again examined that scene as diligently as you
20 possibly could for all evidence of blood, brain
21 tissue, skull, anything at all that would help
22 you determine what happened that evening?

23 A Yes.

24 Q At any time, in any of your reports or any of
25 your photographs, is there any documentation of

1 blood, bone, or brain tissue on the windshield
2 of the Nissan?

3 A Is there any?

4 Q Yes.

5 A None that I seen.

6 Q If you had seen it, you obviously would have
7 recorded it?

8 A Yes.

9 Q That would have been one of the things you
10 would have been diligently searching for;
11 correct?

12 A Yes.

13 Q Thank you. All right. Going back to Exhibit
14 82, which is your supplementary report dated
15 November 12, 2004, after your initial
16 examination of the scene as we've discussed
17 earlier, you then went back to the PSB? Is
18 that public safety building?

19 A That would be.

20 Q Is that the building within which the Kenosha
21 police department is located?

22 A It would be.

23 Q There you went to the detective bureau and you
24 met with the assigned detectives; correct? Or
25 at least you went there in order to meet with

1 Q Then when all the officers had completed their
2 individual descriptions, you placed a number
3 ten on the hood of the Nissan to represent the
4 suspect's approximate location; correct?

5 A Correct.

6 Q Then you used a placard number one to represent
7 Strausbaugh's location -- approximate location
8 at the time of the shoot?

9 A Correct.

10 Q Number two represented Weidner's approximate
11 location at the -- excuse me, Weidner's
12 approximate location at the time of the shoot?

13 A Correct.

14 Q Number three was for Krueger's location?

15 A Correct.

16 Q And four represented Gonzales's approximate
17 location?

18 A Correct.

19 Q Now, when you say you placed number ten on the
20 hood of the Nissan, is that as good an
21 approximation as you can make of Michael Bell's
22 location at the time of the shoot?

23 A Where that number ten placard is?

24 Q Yeah.

25 A That was simply setting it down where there was

1 a clear spot to set it down.

2 Q So just to show that he was on the hood?

3 A Yes. That he was near the hood or on the hood.

4 Couldn't put everything on the ground, so we
5 tried to keep it up in the air where it could
6 be seen. Can I say something?

7 Q Yeah, go right ahead.

8 A I just want to make it clear that these
9 officers did not -- they were not speaking to
10 me when they told -- when they had -- when they
11 said, this is where I was. I was at a
12 distance; they were speaking with the
13 detective, and the detective said, mark this
14 spot.

15 Q I was just about to go back. Now I want to
16 cover the mechanics of what was done. I just
17 want to make sure we got this clearly on the
18 record.

19 A Okay.

20 Q Did you assign the officers their numbers in
21 the sequence in which they described where they
22 were at the time of the shoot, or is it just
23 random?

24 A Just random. Wait a minute. Wait a minute. I
25 picked a number and put it down on the hood

1 building, you did some evidence tagging, turned
2 over control of some of the evidence to
3 individuals at the department, and then that
4 was the end of it until November 11th at about
5 6:45 in the morning?

6 A Correct.

7 Q You went to the Waukesha County medical
8 examiner's office, where you arrived at
9 approximately eight o'clock in the morning?

10 A Correct.

11 Q During the course of your time at the Waukesha
12 County medical examiner's you witnessed an
13 autopsy that was performed by Dr. Doug Kelley?

14 A Correct.

15 Q Autopsy began approximately 8:30 that morning?

16 A Correct.

17 Q You were in the room during the entire length
18 of the autopsy?

19 A Correct.

20 Q And again, from a forensic standpoint, it was
21 important for you to document as much as you
22 possibly could that might help with an
23 evaluation of the crime scene and the crime and
24 what may have gone on that night during the
25 course of the shooting?

1 A Correct.

2 Q This is something that you were trained to do?

3 A Correct.

4 Q About halfway down the second paragraph is a
5 sentence that starts with, "Dr. Kelley
6 proceeded."

7 A "With an extremely thorough" --

8 Q Yes.

9 A Yes.

10 Q I'll read that to you. "Dr. Kelley proceeded
11 with an extremely thorough exam of the body.
12 This included collecting head hair samples as
13 well as fingernail clippings. I photographed a
14 variety of abrasions and contusions in various
15 locations of Bell's body. These were taken
16 both with and without scale." Now, we've been
17 able to identify those photographs --

18 A Correct.

19 Q -- in our predeposition session here. Then you
20 go on to say, "An external examination of the
21 head showed a contact gunshot entrance wound to
22 the right side of Bell's head. This injury was
23 just above his right ear." Had you been
24 trained in identification of contact gunshot
25 wounds as part of your forensic background?

1 A Yes.

2 Q I have seen the photographs of the right side
3 of Michael Bell's head, called the right temple
4 area; would that be --

5 A Temporal region.

6 Q Just a little bit above and in front of the
7 right ear; is that correct?

8 A Correct.

9 Q Have you ever heard of something called a
10 muzzle stamp?

11 A I have.

12 Q What's a muzzle stamp?

13 A Muzzle stamp is what is made when, if you're
14 talking about a full muzzle stamp, when the
15 entire muzzle is pressed against an object. It
16 basically is the heat creating that pattern of
17 the muzzle.

18 Q Was there a pattern of the muzzle on the right
19 side of Michael Bell's head that you were able
20 to identify during the course of that autopsy?

21 A I believe that there was, correct.

22 Q You did take photographs to document that;
23 correct?

24 A Yes.

25 Q Now, you also understand the difference between

1 an entrance wound and an exit wound based upon
2 your forensic background?

3 A Correct.

4 Q Understanding you're not a pathologist, but you
5 still have a basic understanding of the
6 differences and appearance between the two;
7 correct?

8 A Correct.

9 Q It was clear to you that the entrance wound was
10 the right side of Michael Bell's head?

11 A Correct.

12 Q I mean, there's just no doubt about that, is
13 there?

14 A None in my mind.

15 Q Then on the left side of Michael Bell's head
16 you were able to visualize and photograph a
17 wound that was consistent with what an exit
18 wound would look like?

19 A Correct. Could look like.

20 Q And there wasn't anything about the appearance
21 of it that led you to conclude that it was
22 anything other than an exit wound in Michael
23 Bell's case?

24 A Correct.

25 Q All right. The pattern that you saw above

1 Michael Bell's right ear after it had been
2 shaved you described as a "distinct pattern."
3 Did I read that correctly?

4 A Where are you?

5 Q "After the area above Bell's right ear was
6 shaved, a distinct pattern became visible."

7 A All right, I'm not finding it.

8 Q It's just a couple lines below where you have,
9 in parentheses, "See Dr. Kelley's report for
10 further pathology results."

11 A That's where I'm looking.

12 Q It starts the fourth line below that.

13 A "The pattern was consistent"?

14 Q Yes. But, "After the area above Bell's right
15 ear was shaved, a distinct pattern became
16 visible. The pattern was consistent with the
17 muzzle area of the Smith & Wesson model 4506,
18 .45 caliber, semi-auto." Did I read that
19 correctly?

20 A I don't -- I'm not seeing quotes.

21 Q No, I'm putting in quotes just for the record.

22 A Okay.

23 Q To indicate that I'm reading verbatim what you
24 have there.

25 A Got you. Yep, that's a statement put in the

1 report based on Dr. Kelley and my conversation
2 about the weapon and the pattern injury there,
3 and his measurements and his diagram and so on,
4 so forth.

5 Q I understand that you made your weapon safe and
6 had Detective Niccolai, who was there at the
7 autopsy, verify that your weapon was safe?

8 A Correct.

9 Q Then you allowed Dr. Kelley to photograph and
10 measure the muzzle area of your .45 caliber
11 model 4506 Smith & Wesson; correct?

12 A Correct.

13 Q And then you also photographed the muzzle area
14 of the weapon as well as the contact injury to
15 Bell's head?

16 A That's correct, sir.

17 Q So when we look at the photographs, we're
18 looking at your gun, not the actual gun used to
19 shoot Michael Bell?

20 A Correct.

21 Q Before you went to the autopsy, had you
22 discussed with any of the involved officers
23 what their account was of the shooting of
24 Michael Bell?

25 A No.